

Notice of Allowability

Application No.

10/619,447

Examiner

Thong Q. Nguyen

Applicant(s)

MULLER ET AL.

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 12/9/2005.
2. ☒ The allowed claim(s) is/are 1-9 and 11-16 which are renumbered as claims 1-15.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

THONG NGUYEN
PRIMARY EXAMINER
GROUP 2800

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendment filed on 12/9/05. It is noted that in the amendment, applicant has made changes to the abstract and the claims.

Regarding to the claims, applicant has amended claims 1-9 and 11-16 and canceled claim 10. The pending claims 1-9 and 11-16 are examined in this Office action.

Election/Restrictions

2. The amended linking claim 9 is now allowable. Accordingly, the restriction requirement as to the encompassed inventions I and II is hereby withdrawn and claims 11-13, directed to the invention II are no longer withdrawn from consideration since all of the claims to this invention depend from or otherwise include each of the limitations of an allowed linking claim.

In view of the above noted withdrawal of the restriction requirement as to the linked inventions, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Oath/Declaration

3. The objection to the oath/declaration as set forth in the previous Office action is now withdrawn due to the filing of an application data sheet on 12/9/05.

Specification

4. The objection to the abstract of the disclosure as set forth in the previous Office action is now withdrawn due to the amendment to the abstract provided in the amendment of 12/9/05.

Claim Objections

5. The objections to the claims 4, 14 and 16 as set forth in the previous Office action are now withdrawn due to the amendment to the claims provided in the amendment of 12/9/05.

EXAMINER'S AMENDMENT

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

a) In claim 9: on line 3, changed "for for accommodating" to
--for accommodating--;

b) In claim 11: on line 1, changed the status indicator of "(Withdrawn, Currently Amended" to --(Currently Amended)--;

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c) In claim 12: on line 1, changed the status indicator of "(Withdrawn, Currently Amended" to --(Currently Amended)--; and

d) In claim 13: on line 1, changed the status indicator of "(Withdrawn, Currently Amended" to --(Currently Amended)--.

Allowable Subject Matter

7. Claims 1-9 and 11-16 are allowed over the cited art.

8. The following is an examiner's statement of reasons for allowance:

The mouth switch arrangement as recited in the present claim 1 and the microscopy arrangement having such a mouth switch as recited in present claim 9 are patentable with respect to the cited art, in particular, the U.S. Patent Nos. 3,887,267 and 3,877,778 by the limitations related to the structure of the support of the mouth switch mount. In particular, the mouth switch mount of the cited art does not have a pivot member pivotably relative to the locking member and supporting the mouth switch as claimed.

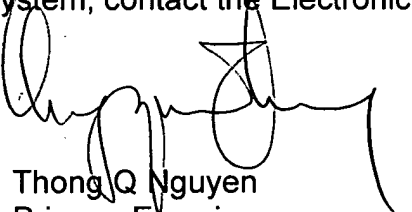
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen
Primary Examiner
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